

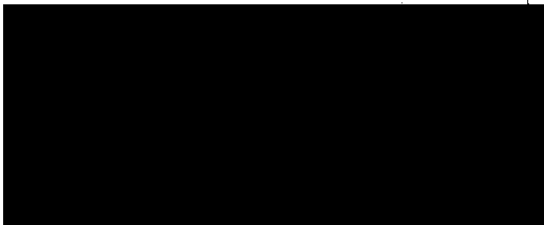


U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS  
425 Eye Street N.W.  
ULLB, 3rd Floor  
Washington, D.C. 20536



FILE:



Office: Rome

Date:

AUG 29 2000

IN RE: Applicant:



APPLICATION: Application for Refugee Travel Document Pursuant to Title 8, Code of Federal Regulations, Part 223.2(b)(2)

IN BEHALF OF PETITIONER: Self-represented

**Public Copy**

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

*Terrance M. O'Reilly*

Terrance M. O'Reilly, Director  
Administrative Appeals Office

Identifying data deleted to  
prevent clearly unwarranted  
invasion of personal privacy

**DISCUSSION:** The application was denied by the District Director, Rome, Italy, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Croatia who is seeking to obtain a refugee travel document pursuant to 8 C.F.R. 223.2(b)(2).

The district director denied the application after determining that the applicant had been outside the United States for more than one year since his last departure, and that he failed to establish he did not intend to abandon his refugee status at the time of his departure.

On appeal, the applicant states that he departed from the United States in January 1998 after receiving word that his mother suffered a heart attack. He also had to visit his sick wife, and he had to be present to identify the body of his father who was killed by the Serbs during the war.

8 C.F.R. 223.2(b)(2)(ii) states, in pertinent part:

As a matter of discretion, a district director having jurisdiction over a port-of-entry or a preinspection station where an alien is an applicant for admission, or an overseas district director having jurisdiction over the place where an alien is physically present, may accept and adjudicate an application for a refugee travel document from an alien who previously had been admitted to the United States as a refugee, or who previously had been granted asylum status in the United States, and who had departed from the United States without having applied for such refugee document, provided:

(A) The alien submits a Form I-131, Application for Travel Document, with the fee required....;

(B) The district director is satisfied that the alien did not intend to abandon his or her refugee status at the time of departure from the United States;

(C) The alien did not engage in any activities while outside the United States that would be inconsistent with continued refugee or asylee status; and

(D) The alien has been outside the United States for less than 1 year since his or her last departure.

The record reflects that the applicant was admitted to the United States as a refugee on March 25, 1997. On January 31, 1998, he departed from the United States to Bosnia. On December 9, 1999, the applicant filed an application for refugee travel document with the Rome district office.

The applicant has been outside the United States for approximately two years since his last departure. Further, the applicant has not established that he did not intend to abandon his refugee status at the time of his departure as required by 8 C.F.R. 223.2(b)(2)(ii).

Consequently, the application for a refugee travel document may not be approved.

The burden of proof in these proceedings rests solely with the applicant. Section 291 of the Act, 8 U.S.C. 1361. The applicant has not met that burden. Accordingly, the appeal will be dismissed.

**ORDER:** The appeal is dismissed.